



DEPARTMENT OF TRANSPORTATION

Billing Code 4910-EX-P

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2013–0313]

Parts and Accessories Necessary for Safe Operation; Application for an Exemption from Help, Inc.

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of application for exemption; request for comments.

SUMMARY: FMCSA requests public comment on an application for exemption from Help, Inc. to allow its transponder systems to be mounted on commercial motor vehicles lower in the windshield than is currently permitted by the Agency's regulations in order to utilize a mounting location that maximizes the device's ability to send and receive roadside data. The Federal Motor Carrier Safety Regulations (FMCSRs) currently require antennas, transponders, and similar devices to be located not more than 6 inches below the upper edge of the windshield, outside the area swept by the windshield wipers, and outside the driver's sight lines to the road and highway signs and signals. Help, Inc. believes that mounting the transponder lower in the windshield will maximize a driver's external view of the roadway.

DATES: Comments must be received on or before *[insert date 30 days after publication]*.

ADDRESSES: You may submit comments identified by DOT DMS Docket Number FMCSA–2013–0313 by any of the following methods:

- Web site: <http://www.regulations.gov>. Follow the instructions for submitting comments on the Federal electronic docket site.

- Fax: 1–202–493–2251.

- Mail: Docket Management Facility, U.S. Department of Transportation, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001.

- Hand Delivery: Ground Floor, Room W12–140, DOT Building, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m. e.t., Monday through Friday, except Federal holidays.

Instructions: All submissions must include the Agency name and docket number for this notice. For detailed instructions on submitting comments and additional information on the exemption process, see the “Public Participation” heading below. Note that all comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. Please see the “Privacy Act” heading for further information.

Docket: For access to the docket to read background documents or comments received, go to <http://www.regulations.gov> or to Room W12–140, DOT Building, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT’s complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19476) or you may visit <http://www.regulations.gov>.

Public participation: The <http://www.regulations.gov> Web site is generally available 24 hours each day, 365 days each year. You can get electronic submission and

retrieval help and guidelines under the ‘‘help’’ section of the <http://www.regulations.gov> Web site and also at the DOT’s <http://docketsinfo.dot.gov> Web site. If you want us to notify you that we received your comments, please include a self addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments online.

FOR FURTHER INFORMATION CONTACT: Mr. Brian J. Routhier, Vehicle and Roadside Operations Division, Office of Bus and Truck Standards and Operations, MC–PSV, (202) 366–1225; Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001.

SUPPLEMENTARY INFORMATION:

Background

Section 4007 of the Transportation Equity Act for the 21st Century (TEA– 21) [Pub. L. 105–178, June 9, 1998, 112 Stat. 401] amended 49 U.S.C. 31315 and 31136(e) to provide authority to grant exemptions from the Federal Motor Carrier Safety Regulations (FMCSRs). On August 20, 2004, FMCSA published a final rule (69 FR 51589) implementing section 4007. Under this rule, FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public with an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

The Agency reviews the safety analyses and the public comments and determines whether granting the exemption would likely achieve a level of safety equivalent to or greater than the level that would be achieved by the current regulation (49 CFR 381.305).

The decision of the Agency must be published in the **Federal Register** (49 CFR 381.315(b)). If the Agency denies the request, it must state the reason for doing so. If the decision is to grant the exemption, the notice must specify the person or class of persons receiving the exemption and the regulatory provision or provisions from which an exemption is granted. The notice must also specify the effective period of the exemption (up to 2 years) and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.315(c) and 49 CFR 381.300(b)).

Help, Inc. Application for Exemption

Help, Inc. applied for an exemption from 49 CFR 393.60(e)(1) to allow the installation of transponders on its customer's commercial motor vehicles in a location that is lower than currently allowed under the regulation. Section 393.60(e)(1) of the FMCSRs prohibits the obstruction of the driver's field of view by devices mounted on the windshield. Antennas, transponders and similar devices must not be mounted more than 152 mm (6 inches) below the upper edge of the windshield. These devices must be located outside the area swept by the windshield wipers and outside the driver's sight lines to the road, highway signs and signals.

In its application, Help Inc. states:

“Help, Inc. is making this request because we are coordinating device development and installation of PrePass transponder in up to 430,000 commercial motor vehicles. The 5.9 and toll transponder equipment installed is located at the bottom of the windshield, but within the swept area of windshield because the safety equipment must have a clear forward facing view of the road, and low enough to accurately be read by roadside infrastructure...The restrictions on the location of devices mounted in the windshield area significantly degrade the ability to capture the proper viewing area in commercial motor vehicles. A 5.9 and toll transponder which lacks an effective view of the roadside infrastructure through the front windshield will negatively impact the ability to send and receive roadside data.”

Help Inc.'s preferred mounting location for the transponders is 2 inches right of the center of the windshield, and 2-3 inches above the dashboard. Help Inc. states that using this mounting location that is lower in the windshield than currently permitted by the FMCSRs "will offer the best opportunity to optimize the data transmission and evaluate the benefits of such a system" while maximizing "the external view of the roadway."

Request for Comments

In accordance with 49 U.S.C. 31315 and 31136(e), FMCSA requests public comment from all interested persons on Help Inc.'s application for an exemption from 49 CFR 393.76(c)(1). All comments received before the close of business on the comment closing date indicated at the beginning of this notice will be considered and will be available for examination in the docket at the location listed under the **ADDRESSES** section of this notice. Comments received after the comment closing date will be filed in the public docket and will be considered to the extent practicable. In addition to late comments, FMCSA will also continue to file, in the public docket, relevant information that becomes available after the comment closing date. Interested persons should continue to examine the public docket for new material.

Issued on: July, 23, 2013

Larry W. Minor
Associate Administrator for Policy

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